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DEWSBURY, WAKEFIELD, AND DISTRICT
LAW STUDENTS' SOCIETY.

INAUGURAL ADDRESS

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BY

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HONORARY PRESIDENT OF THE SOCIETY.

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THE ADDRESS.

GENTLEMEN: my first duty to-night is to express the gratification which I feel in taking my official place among you, of Honorary President, to which high position you have done me the honour to appoint me. I have next to congratulate this infant Society upon the success which, according to the reports just read, it has, in a very short time, achieved. Considering the number of members already enrolled, and your present financial condition, I can have no fear that the spirit which has hitherto animated you will continue to do so, and that this Society will, before long, take its place among those Associations of a like character which have already stamped their influence upon the legal profession. Gentlemen, in the course of the observations which I shall address to you this evening, when I speak of our profession, I wish it to be understood that I include both the professions of the Barrister and the Solicitor. I, for one, whilst advocating the division of labour, believing that it is for the interest of each branch, believing, also, that it is for the benefit of the community, which, after all, is, and should be, the primary consideration, am of opinion that the noble profession of the law, divided though it may be into branches, should be one united body, regarding each branch as members of the same high, honourable calling, and not as the members of a disunited family, set one against the other; and among the law reforms to which I look forward is that, in no distant time, you will find that the profession of the law, consisting still of Barristers and Solicitors, will embrace the one united calling, each branch pursuing a different line of practice, but accessible and open to each other according to the option of its respective members.

Now, the value and importance of Associations like this cannot be exaggerated. All Societies that bring men together in unity of purpose must be beneficial, not only to their members but, to those with whom they hold more or less special and important external relations; and a profession like the law, which has charge of the dearest interests of society, a profession in which, on the one hand, the bar is called upon to plead for the rights and liberties of the subject, where the highest to the lowest will find advocates, able and learned, who will earnestly and fearlessly discharge their high and responsible duty to their client, whether it be a Malasherbes pleading the cause of a crowned Monarch, a Brougham the case of a Queen of England, or a young man at Sessions defending some miserable creature on trial for a petty larceny, I say such a pro-

fession, in the hands of high-minded, learned, and able men, is a grand and noble calling, and affords a fine illustration of a country's freedom. Take, on the other hand, the branch to which you or the greater number of the Society belong, or are likely to belong,—what can possibly exceed the importance, the difficulty, and the delicacy of the functions which a Solicitor has to discharge? Not only the most intricate and difficult questions of law, the most abstruse problems of juridical science, have to be unwoven and explained by him, either to his client or the counsel whom he consults, but he has charge of the most sacred interests and confidences of family life, so that he must be not only an able and well-instructed lawyer, but essentially a man of honour. I know of no profession that makes a larger demand upon the intellectual powers, none that makes so great a claim upon the moral sense of the man. Well, then, your Society has been formed for the purpose of "advocating," as I see by your rules, "and promoting the interests of the profession at large"; for the "cultivation of the art of public "speaking, and for the promotion of information upon subjects "connected with the study and practice of the law." These are the objects of your society, and you propose to accomplish these objects "by means of debates upon subjects of a legal and juris-"prudential character, the delivery of lectures and the reading of "papers upon the above mentioned subjects, and such other means "as the committee for the time being shall from time to time "provide." That is an excellent programme; nothing can be better, nothing more likely to conduce to the objects for which you have been associated. I cannot attempt to-night to go through every one of these topics, but I shall advert to one of them, "the study of the law, and the manner in which that study should be pursued." What is the study of the law? It is the study of those rules which bind society together, that hold us linked in social harmony, that protect life and limb and property, that preserve order, both without and within, even our domestic life. The study of this important science is pursued, for the most part, I am sorry to say it, in a manner not calculated to present its highest aims to the minds of its aspirants. The study and practice of technical routine has hitherto, to a large extent, absorbed the attention of students of both branches of the profession. Each young man is sent to the law as a calling by which he shall earn his bread, and possibly something more. Some start with the something more in the foreground, that is, high pecuniary reward.; others for honour and social position. Now, for my own part, although, of course, we all must live by our profession, I have always looked upon the professors of the law, whether Barrister or Solicitor, not as the members or followers of a trade, but as the ministers of the law. When you consider the functions which the Lawyer, whether Barrister or Solicitor, is called upon to discharge, the sacred trusts

which he undertakes, the great public duty cast upon him,—how much the honour of families, the welfare of honourable homes, the peace of society itself, are, so to speak, in his keeping,—the study which is to qualify the practitioner for duties so grave and so exalted, should be approached and pursued with a deep sense of responsibility, and with an honourable ambition befitting its high and noble purposes. I say, then, the first counsel which I would offer to the young men of this Association is this,—not to regard your profession as a trade, not as a means of living merely, or of securing wealth, but as an honourable calling, in which you have to discharge sacred duties to the public; a calling which is one of honour; which, although it may not throw fortune into your laps, or place you in the position of millionaires, yet gives you that which the mere possession of wealth is unable to procure—the consideration and respect of good men, of the thoughtful, the high minded, and most honoured members of society. It is among these that it should be your object to take your place. Your profession is in itself one of social position and rank, although you might not have a shilling in your pockets. You can have no more striking proof of the freedom and elevation of a people than their respect for the law, and the consideration in which they hold its professors. In this country, especially, the profession of the law is held in the highest honour, and a man at the bar who makes £10,000, £15,000, or £20,000, as a successful advocate, is content to go upon the Bench at £5,000. Why? Because he finds compensation, reward, in the honour and the consideration which the public pay to the exalted office of the Judge. Well then, in studying the law, I would counsel you to study not only the technical rules of practice, but the principles of Law as a Science, its aims in its several branches, its foundations as a system, its history. It is not sufficient to be able to say, "*Ita lex Scripta est*"; You must be instructed in its first principles. With our complicated and progressive development of law, and the great accumulation of judicial decisions, it is hardly possible for a lawyer who has confined his attention to one narrow groove to decide for himself, much less declare to others, what the law is. You must be able to follow out, and to trace *a priori*, the course of judicial reasoning, to compare one set of principles, one set of arguments, one chain of reasoning with another, and so evolve inferences for yourselves; conclusions which might in due course receive judicial confirmation. In this difficult and complicated system of ours, to be a lawyer does not simply mean the power of citing cases, or pointing to precedents; it means the power of analysis and comparison, and probing the depths of legal reasoning; of thinking out a legal question for yourselves, through a complicated and jarring mass of decisions. Again, in the study of the law is involved the study of legal history. And what is the study of legal history?

Leibnitz divides it into two branches, external and internal history, and many writers since his time have adopted that division, though with some modification. The two, to my mind, are inseparable. ~~You cannot separate them.~~ External history treats of the manner in which laws came into existence, and the manner in which the science of law has from time to time been cultivated and developed. It explains the political events which have had an influence upon the progress of legislation, and it gives a chronological account of laws and law-givers and legal writers. No history, you will see, can do this without giving an account of the laws themselves. On the other hand, the primary object of internal history is to trace the variations in the doctrines of the laws themselves; for example, to consider the different rules prevailing at different times with respect to property, personal rights, judicial organization, procedure, criminal law, the relations of personal status, and so forth. It is obvious, then, that the history of law must comprehend both, and not be confined to either. Attention must be directed to the progressive development of the social state and the general spirit of those institutions, social and political, which affect the national character, both in public and private life. How inseparable, in the nature of things, are the subjects of external and internal legal history is evident when you consider how the habits and thoughts of a people give rise to actions and political events that produce changes in legislation that act and react alternately upon the habits and character of nations. So much then for the study of legal history; and why do I counsel you to pursue the study? It is that you may bring enlarged minds, in place of narrow understandings, to the practice of your profession. At the present day the positions open to the members of both branches of the legal profession are numberless. The bar and the bench, the magistracy in all its branches, municipal offices, and appointments requiring high legal training and administrative ability, are open to you. But apart from these objects of laudable ambition, I counsel you to approach the study of your profession for its own sake, with elevated views of its aims and duties, as a noble vocation; to bring to it cultivated intellects, to preserve and increase your mental culture, so as never to sink to the level of the mere lawyer.

There are few nations whose history can be written without a careful study of their jurisprudence, not only as it concerns the governing power, but as it relates to the constitution and the rights of individuals. In these respects there is a striking analogy between the Roman people and ourselves. The history of either would be incomplete did it not include an account of their legal institutions. Like ourselves, the Roman people were imbued with the spirit of their laws. Like us, they were accustomed to legal solemnities, and often regarded with greater jealousy an

infringement of established form than a violation of civil liberty under the cover of constitutional observance. The Roman citizen was, so to speak, educated in the law. His children were examined in the Twelve Tables, and the Roman adult delighted in the litigious contentions of the Forum. Enter any of our Courts of Law now and you will find the same spectacle, the same keen interest of the English citizen in the administration of justice. If we examine the character of both nations, we shall find them what I venture to call eminently legal.

In regere imperio populus Romani memento,
- - - - - - facis-que imponere morem.

The same may be said of our nation. In the cultivation of an elaborate system of jurisprudence both have manifested the same special genius. After the discovery of the Code at Amalfi, whatever there was of Gothic law or customs was superseded by the Roman Civil Law, and that law, I may say, almost to the present time, or within a period compa atively recent, was the universally acknowledged law of most Europ an countries. We alone can lay claim to a system of law at once original and peculiar to ourselves. I need not stop to discuss the high antiquity of our common law, reaching, according to Fortescue and other writers, as far back as the ancient Britons. Perhaps in some degree that opinion is not without foundation, but considering, as Blackstone observes, the conquests which took place, of Romans, Picts Saxons, Danes, and Normans, new and strange laws and customs must have been insensibly introduced and incorporated with many of our own. "Our laws" says Lord Bacon, "are as mixed as our language, and as our language is so much the richer, our laws are the more complete." But, however this may be, one thing is certain, the common law of England was and is substantially a code peculiar to itself, comprising principles and customs peculiar to the character o the Anglo Saxon race, and it owes its origin to no foreign source. After the Norman conquest, while other European nations, as I have said, submitted to the rule of the civil law, the common law of England was able to resist and defeat the attempt to introduce the newly-discovered system of jurisprudence. Whatever may be said in derogation of the, so-called, system of "Judge made law," it has, by what I venture to term, its elastic character, its power of adaptation to new conditions and ever-changing circumstances, the soundness and simplicity of its first principles, and, on the whole, its wise and liberal development by learned and able Judges, well stood the test of long trial, and may fairly lay claim to the designation of a fine, as well as original, system of jurisprudence. Side by side with it, at a later period, grew up the system called "Equity"—Equity which has supplanted the common law, and relaxed the strict, unbending severity of its rules,

affording remedies of a kind which did not exist before, and which, it was said, the common law in its nature was unable to afford. I shall not enter into the vexed controversy now. You no doubt know the nature of the contention; how the common lawyers have asserted the reverse of the proposition, insisting that the common law was in itself sufficiently pliant to have effected, in due course, what was brought about by means of the King's Chancery. But taking the two systems together, blended, as under recent legislation it has been the object to blend them, into one uniform body of jurisprudence, however it may be the fashion to decry our legal system, and ready as I am to admit its shortcomings and defects, I venture to affirm that, besides the Roman people, no people have shown such a genius for law as the English people; and let us hope that recent attempts to improve our judicature will bring about the system of codification. It is to you, aspirants of that branch for which you are for the most part, intended, that we may fairly look for suggestions, for practical views, in the direction of law reform and codification; for after all, we at the bar, who pursue—I say so not in an invidious sense—the purely intellectual branch of the profession, sitting in our chambers, reading our law books, studying our briefs and passing our time in the Courts,—we are by no means as capable as you, who are in personal contact with your clients, and with the outer world, seeing and knowing by daily experience where the pinch of legal defect lies. It is to you that the public may fairly look for wise and practical suggestions of law reform.

I have endeavoured to lay before you the true character of our profession, its aims and its duties, and the manner and the spirit in which the study and practice of the Law should be pursued. I now pass on to another object of your Society, which is the cultivation of the art of public speaking. Now, some of you, I dare say, have read books on this subject, and found that they contained a great many precepts. For my own part, I think very little of the advantages to be derived from books on Rhetoric. The best, because the most practical of the kind, is Archbishop Whateley's book, and I recommend it to your attention. Most writers upon Rhetoric will tell you that you are to do a great many things; you are to cultivate a good style, good pronunciation, good manner, good modulation, good action, the study of good writers, committing to memory choice passages from the best authors, and so forth. With regard to the last, I agree with them. I think that the more you read, the more you expand your minds, and become imbued with noble, lofty sentiments expressed in fine, appropriate language, so you will become familiar with the forms of thought and expression which tend to make a man what is called, if not an eloquent, at any rate, a good speaker. My own observation has been this,—

that a man not over nervous, if he has anything to say, will always be able to say it. Most failures in public speaking arise either from nervousness, or more frequently, in my judgment, from ignorance of the subject, or pretentious attempts at eloquence. Nervousness is caused very often, and is always increased, by thinking that because the speaker is addressing a public audience he must say something very much out of the common way. Now my advice to you is,—whatever you intend to speak about in this Society or elsewhere, read it up well, get it up well, inform yourselves upon it; and when you have got all the facts of the case in your mind, think them out and see what you can make of them, for yourselves and by yourselves; and when you rise to speak, be natural; have no recourse to art, to rules of elocution, of intonation, and so forth. If you understand and are well informed upon what you are going to talk about, you will find that language will come to give expression to what you have to say. Do not shoot off after grand thoughts and high sounding phrases. If grand thoughts are in you, appropriate phrases in which to clothe them them will come naturally without effort. If, on the other hand, the grand thoughts are not in you, the attempt to create or to express them, will end in disaster, and your speaking will be mere empty wordiness and rhodomontade. The first thing as I have said, is to get up your subject well; master it, think it out for yourselves, make it your own, identify it as it were with your own minds, and then, I repeat, adopt a form of expression which is natural to you. When you have done that a few times, depend upon it you will begin to improve and to feel confidence, for you will have tested and proved your power, and you will become fluent and possibly eloquent speakers. But there is another thing I would recommend for your consideration. Some persons are more or less gifted with the faculty of speaking, and to those who are not so gifted, I would say—don't be unnerved because you happen not to be so ready as others. And you who are gifted as ready speakers, give a charitable and generous hearing to those who happen not to be so endowed. (Hear hear.) If you see a young man stammer and falter, so far from laughing, or indulging in ironical cheers, listen to him and encourage him to go on, otherwise your Association, instead of fulfilling the important object of your programme, of cultivating the Art of public speaking, will be a benefit only to a few, perhaps three or four, out of a large body. There is another thing I would recommend, write out your speeches. The greatest orators of our time have done that. Demosthenes wrote out his speeches; Cicero wrote out his speeches, and there are speeches of both these great orators of antiquity which have come down to us, and which are studied as models of oratory, which were never spoken at all. In recent times, and this is no secret, Macaulay wrote out his speeches, Lord Lytton wrote out his speeches, and it is said of Lord Lytton, though I don't

like to affirm it positively, that he delivered them from memory. Lord Brougham wrote out his peroration of his defence of Queen Caroline no less than nine times. I do not say that he committed it to memory and delivered it accordingly, and I do not recommend that to be done. It is dangerous, to say the least, to be a speaker by rote, and that reminds me of a couplet which has become so hackneied that I must apologise for quoting it :—

> "They say of Dudley that he has no heart.
> But I deny it ; he has a heart, and gets his speeches by it."

Now I do not recommend that practice of Lord Dudley's. You should write out your speeches, because the subject upon which you are about to speak will be better impressed on your minds; you will be better able to test the soundness of your views, the correctness of your reasoning, and the accuracy of your language. The habit of writing produces accuracy of thinking, and variety, as well as correctness and elegance, of expression. There is another point upon which I desire to say a few words. I have often heard it said by students of societies like this,—"I don't care which side of the debate I take ; I will speak on any side, merely for the sake of argument." I have always thought this a great error. In the discussion of any subject of interest, even of a question of law, a student should take the side which he conscientiously considers to be the right one, and none other. I do not believe in the benefit to a man, of cultivating a purely intellectual process at the expense of the moral feelings. You may acquire mental power, you may quicken the mental faculties, and become a keen and ready reasoner, but you will have deadened, if not crushed out, the moral sense. But it may be said,—" this is strange counsel from a member of the bar, who takes the side of the client who first retains him, without reference to its merits." The cases are wholly different,—there is no analogy between them. The advocate at the bar takes a case not because he is, or should be, personally identified with it; on the contrary, he is not a wise or a good advocate who personally identifies himself with the case of his client.—(Applause.) It is not his business to do so. He is simply the medium through whom the rights or the wrongs of the subject are placed before the tribunals of the land. He is bound to bring to bear all his learning and the powers of his mind in order to do this. He has no option, no power of refusal. He is public property, and is bound to give his services to the lowest, as well as the highest, who might require them. This is the footing, the only footing, upon which he can claim to stand. Were it otherwise, were the advocate at liberty to exercise an option, and to say that he will take one case and refuse another, according to what he considers its merits, he would be assuming the place of the tribunal which is appointed to decide; and the rights and liberties, which it is his duty to guard and protect, instead of being adjudicated upon

by the constituted authority of the Courts of Law, would be settled and determined by, it may be the caprice, or the prejudice of an irresponsible individual. There is no analogy, then, between the duty of the advocate and the case of a Debating Society, of which I have been speaking. The advocate, moreover, is bound by the rules of law, and, in the conduct of his case, by a just deference to what is reasonable and right, and beyond this no advocate has any right to go. (Applause.) He is not to win *per fas aut nefas*. Now, I am afraid I have detained you to an undue length; but on this, the first occasion of my appearing before you, I did not feel that I should be discharging my duty as Honorary President if I limited myself to a formal routine course in opening this session. I do not think that it would have been respectful towards the Association which has done me the honour to place me in the high position which I occupy. I have felt it my duty to place before you, from a high standard, the great functions of the profession to which you aspire, and its important duties which you will be called upon to perform. The work which your Association has undertaken is the promotion, not only of your personal interests, not only of the interests of the profession of the Law, but, through that profession, the interests of the great community whose trustees you will hereafter become. Many of you will rise, no doubt, to high and honorable places; some may not succeed so well as others, but there is no difference whatsoever in the duty cast upon you young men, aspirants of a noble calling; that duty is, to uphold the dignity of the high and glorious profession of the Law, to make that profession respected, to make a law abiding people still more devoted to the Law which is their protection and their pride; for "of Law," to quote the grand words of Hooker, "of Law there can be no less acknowleged than that her seat is the bosom of God, her voice the harmony of the World; all things in heaven and earth do her homage, the very least as feeling her care, and the greatest as not exempted from her power, both angels and men and creatures of what condition soever; though each in different sort and manner, yet all with uniform consent admiring her, as the mother of their peace and joy." (Applause.)